

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

James Muhammad,)	C/A No. 3:06-408-CMC-JRM
)	
Plaintiff,)	OPINION and ORDER
)	
v.)	
)	
Department of Mental Health and Robert Milling,)	
)	
Defendants.)	
)	

This matter is before the court on Plaintiff's *pro se* complaint seeking relief due to alleged "discrimination" against him by the above-named Defendants.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pre-trial proceedings and a Report and Recommendation. On March 20, 2006, the Magistrate Judge issued a Report recommending that this matter be dismissed without prejudice and without issuance and service of process. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. Plaintiff filed a response to the Report and Recommendation on March 28, 2006.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report and Recommendation only for

clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After reviewing the record of this matter, the applicable law, the Report and Recommendation of the Magistrate Judge, and Plaintiff’s response to the Report and Recommendation, the court agrees with the conclusions of the Magistrate Judge.¹ Under 28 U.S.C. § 1915A(b)(1), this matter is dismissed for failure to state a claim upon which relief can be granted.

IT IS HEREBY ORDERED that this action is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
April 17, 2006

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¹The court notes that the Report and Recommendation contains historical information related to Plaintiff that appears nowhere in the record of this matter. The court declines to adopt this portion of the Report and Recommendation. Plaintiff’s “Application to Proceed Without Prepayment of Fees and Affidavit” indicates, however, that he is “incarcerated.” Application at 1, filed Feb. 10, 2006.